

103^D CONGRESS
1ST SESSION

H. R. 3628

To establish the Regulatory Sunset Commission to review regulations of executive agencies, and to provide for the automatic termination of regulations that are not authorized by the Commission to continue in effect.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 1993

Mr. CHAPMAN introduced the following bill; which was referred jointly to the Committees on the Judiciary and Government Operations

A BILL

To establish the Regulatory Sunset Commission to review regulations of executive agencies, and to provide for the automatic termination of regulations that are not authorized by the Commission to continue in effect.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Regulatory Sunset Act
5 of 1993”.

6 **SEC. 2. PURPOSE.**

7 The purposes of this Act are the following:

1 (1) To require agencies to regularly review their
2 regulations and make recommendations to termi-
3 nate, continue in effect, or modify those regulations.

4 (2) To designate a Regulatory Review Officer
5 within each agency, who is responsible for furthering
6 compliance by the agency with the requirements of
7 this Act.

8 (3) To establish a Commission to perform sun-
9 set reviews of all agency regulations.

10 (4) To provide for the automatic termination of
11 agency regulations that are not authorized by the
12 Commission to continue in effect after such reviews.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) AGENCY.—The term “agency” means an
16 Executive agency, as that term is defined in section
17 105 of title 5, United States Code.

18 (2) REGULATION.—The term “regulation”
19 means a rule, as that term is defined in section
20 551(4) of title 5, United States Code, that is issued
21 by an agency.

22 (3) COMMISSION.—The term “Commission”
23 means the Regulatory Sunset Commission estab-
24 lished by section 103.

1 **TITLE I—SUNSET REVIEWS**

2 **SEC. 101. REVIEW AND TERMINATION OF REGULATIONS.**

3 (a) IN GENERAL.—Except as provided in subsection
4 (b), regulations shall be reviewed by the Commission and
5 terminate as follows:

6 (1) EXISTING REGULATIONS.—A regulation in
7 effect on the date of the enactment of this Act—

8 (A) shall be reviewed by the Commission
9 before the end of the 7-year period beginning
10 on that date of enactment, and

11 (B) shall not be effective after that 7-year
12 period, unless before the end of that period the
13 regulation is reviewed and authorized by the
14 Commission to continue in effect in accordance
15 with this Act.

16 (2) NEW REGULATIONS.—A regulation that is
17 first effective after that date of enactment—

18 (A) shall be reviewed by the Commission
19 before the end of the 3-year period beginning
20 on the first date it is effective, and

21 (B) shall not be effective after that 3-year
22 period, unless before the end of that period the
23 regulation is reviewed and authorized by the
24 Commission to continue in effect in accordance
25 with this Act.

1 (3) REGULATIONS CONTINUED IN EFFECT.—A
2 regulation that is reviewed and authorized by the
3 Commission to continue in effect under this sub-
4 section or subsection (b)(3)—

5 (A) shall be reviewed by the Commission
6 before the end of the 7-year period beginning
7 on the date of the last such authorization, and

8 (B) shall not be effective after the end of
9 that 7-year period, unless before the end of that
10 period the regulation is reviewed and authorized
11 by the Commission to continue in effect in ac-
12 cordance with this Act.

13 (b) CONTINUED EFFECTIVENESS WITH RESPECT TO
14 MODIFICATIONS.—

15 (1) 6-MONTH EXTENSION.—A regulation that
16 would otherwise terminate under subsection (a) shall
17 continue in effect for the 6-month period beginning
18 on the date on which that termination would occur,
19 if the Commission includes in a report under section
20 102(d) for the regulation any recommendation of
21 modifications that should be made to the regulation.

22 (2) SUBSEQUENT REVIEW.—Before the end of
23 the 6-month period under paragraph (1) for a regu-
24 lation, the Commission shall review the regulation

1 and determine whether the modifications rec-
2 ommended by the Commission have been made.

3 (3) FURTHER EXTENSION.—The Commission
4 shall authorize a regulation continued in effect
5 under paragraph (1) to continue in effect for the 7-
6 year period beginning on the first day of the 6-
7 month period for the regulation under paragraph
8 (1), if the Commission determines in accordance
9 with paragraph (2) that the modifications rec-
10 ommended by the Commission have been made.

11 **SEC. 102. REVIEW OF REGULATIONS BY COMMISSION.**

12 (a) IN GENERAL.—The Commission shall—

13 (1) continuously review all regulations in ac-
14 cordance with section 101 and this section;

15 (2) make determinations regarding whether reg-
16 ulations should terminate or be authorized to con-
17 tinue in effect;

18 (3) recommend modifications that should be
19 made to regulations; and

20 (4) authorize regulations to continue in effect,
21 as determined by the Commission to be appropriate.

22 (b) CRITERIA FOR REVIEW.—The Commission shall
23 consider the following criteria in determining whether a
24 regulation should terminate, is authorized to continue in
25 effect, or should be modified:

1 (1) The extent to which the regulation is out-
2 dated, obsolete, or unnecessary.

3 (2) The extent to which the regulation or infor-
4 mation required to comply with a regulation dupli-
5 cates, conflicts with, or overlaps requirements under
6 regulations of other agencies.

7 (3) The extent to which the regulation impedes
8 competition.

9 (4) Whether the benefits to society from the
10 regulation exceed the costs to society from the regu-
11 lation.

12 (5) Whether the regulation is based on ade-
13 quate and correct information.

14 (6) Whether the regulation is worded as simply
15 and clearly as possible.

16 (7) Whether the most cost-effective alternative
17 was chosen in the regulation to achieve the objective
18 of the regulation.

19 (8) The extent to which information require-
20 ments under the regulation can be reduced, particu-
21 larly for small businesses.

22 (9) Whether the regulation is fashioned to
23 maximize net benefits to society.

24 (10) Whether the regulation is clear and certain
25 regarding who is subject to the regulation.

1 (11) Whether the regulation is crafted to mini-
2 mize needless litigation.

3 (12) Whether the condition of the economy and
4 of regulated industries is considered.

5 (13) Whether the regulation imposes on the pri-
6 vate sector the minimum economic burdens nec-
7 essary to achieve the purposes of the regulation.

8 (14) Whether the total effect of the regulation
9 across agencies has been examined.

10 (15) Whether the regulation relies on market
11 mechanisms.

12 (16) Whether the regulation is necessary to
13 protect the health and safety of the public.

14 (17) Whether the regulation has resulted in un-
15 intended consequences.

16 (c) REVIEW REQUIREMENTS.—For purposes of con-
17 ducting reviews of regulations under this Act, the Commis-
18 sion shall—

19 (1) receive and consider testimony and com-
20 ments from the private sector regarding the applica-
21 tion of the criteria set forth in section 102(b) to ex-
22 isting regulations;

23 (2) review agency reports on regulations sub-
24 mitted under section 201(2); and

1 (3) publish schedules of Commission reviews of
2 regulations, that provide reasonable notice of those
3 reviews to agencies.

4 (d) REPORTS.—The Commission shall submit to the
5 President and the Congress and publish in the Federal
6 Register reports on regulations, before the date of the ter-
7 mination of the regulations under section 101, which in-
8 clude—

9 (1) determinations of whether the regulations
10 should terminate, are authorized to continue in ef-
11 fect, or should be modified;

12 (2) recommendations of any modifications to
13 the regulations that should be made to the regula-
14 tions;

15 (3) other information the Commission considers
16 necessary for a complete evaluation of the regula-
17 tions; and

18 (4) findings and recommendations for legisla-
19 tive or administrative action the Commission consid-
20 ers appropriate.

21 **SEC. 103. ESTABLISHMENT OF REGULATORY SUNSET COM-**
22 **MISSION.**

23 (a) ESTABLISHMENT.—There is established a Com-
24 mission to be known as the Regulatory Sunset Commis-
25 sion.

1 (b) MEMBERSHIP.—

2 (1) NUMBER AND APPOINTMENT.—The Com-
3 mission shall consist of 9 members appointed by the
4 President, by and with the advice and consent of the
5 Senate, from among individuals who are qualified to
6 serve on the Commission by virtue of their edu-
7 cation, training, or experience.

8 (2) CONGRESSIONAL RECOMMENDATIONS.—The
9 majority leader and minority leader of the Senate
10 and the Speaker and minority leader of the House
11 of Representatives may submit recommendations to
12 the President concerning appointments to the Com-
13 mission.

14 (3) LIMITATION ON POLITICAL AFFILIATION.—
15 Not more than 5 members of the Commission may
16 be members of the same political party.

17 (4) CHAIRPERSON.—The President shall des-
18 ignate a member of the Commission as the Chair-
19 person of the Commission.

20 (c) TERMS.—

21 (1) IN GENERAL.—Except as provided in para-
22 graphs (2) and (3), the term of an individual as a
23 member of the Commission shall be 6 years.

1 (2) INITIAL APPOINTMENTS.—Of the individ-
2 uals first appointed as members of the Commission,
3 as specified by the President—

4 (A) 3 shall be appointed to an initial term
5 of 2 years;

6 (B) 3 shall be appointed to an initial term
7 of 4 years; and

8 (C) 3 shall be appointed to an initial term
9 of 6 years.

10 (3) COMPLETION OF TERM OF VACATED MEM-
11 BERSHIP.—A member of the Commission appointed
12 to fill a vacancy on the Commission occurring before
13 the expiration of the term for which the member's
14 predecessor was appointed shall serve pursuant to
15 that appointment only for the remainder of that
16 term.

17 (4) LIMITATION ON REAPPOINTMENT.—An in-
18 dividual may not serve more than 2 terms as a mem-
19 ber of the Commission.

20 (d) EFFECT AND FILLING OF VACANCIES.—A va-
21 cancy on the Commission shall not impair the authority
22 of the remaining members of the Commission to exercise
23 the powers of the Commission.

24 (e) COMPENSATION.—

1 (1) IN GENERAL.—A member of the Commis-
2 sion, other than the Chairperson, shall be paid at a
3 rate equal to the rate of basic pay payable for level
4 III of the Executive Schedule.

5 (2) CHAIRPERSON.—The Chairperson of the
6 Commission shall be paid at a rate equal to the rate
7 of basic pay payable for level II of the Executive
8 Schedule.

9 (f) MEETINGS.—The Commission shall meet on a
10 regular basis, at the call of the Chairperson of the Com-
11 mission or a majority of its members.

12 (g) QUORUM.—A majority of the members of the
13 Commission shall constitute a quorum for the transaction
14 of business but a lesser number may hold hearings.

15 (h) PROHIBITION ON OTHER ACTIVITIES OF MEM-
16 BERS.—A member of the Commission shall not engage in
17 any other business, vocation, or employment.

18 (i) REMOVAL OF MEMBER.—Any member of the
19 Commission may be removed by the President for ineffi-
20 ciency, neglect of duty, or malfeasance in office.

21 **SEC. 104. STAFF OF COMMISSION.**

22 (a) EXECUTIVE DIRECTOR.—The Commission may
23 appoint an executive director, who may be paid at a rate
24 determined by the Commission.

1 (b) STAFF.—The Commission may appoint such pro-
2 fessional and clerical personnel as may be reasonable and
3 necessary to enable the Commission to carry out its func-
4 tions, who may be paid at rates determined by the Com-
5 mission.

6 (c) OTHER FEDERAL PERSONNEL.—Upon request of
7 the Chairman of the Commission, the head of an agency
8 may detail to the Commission, without reimbursement,
9 any personnel of the agency to assist the Commission in
10 carrying out its duties under this Act. Such detail shall
11 be without interruption or loss of civil service status or
12 privilege.

13 **SEC. 105. POWERS OF COMMISSION.**

14 (a) HEARINGS AND MEETINGS.—The Commission
15 may, for the purpose of carrying out this Act, hold hear-
16 ings, sit and act at times and places, take testimony, and
17 receive evidence as the Commission considers appropriate.

18 (b) CONTRACTUAL AUTHORITY.—The Commission
19 may contract with and compensate government and pri-
20 vate agencies or persons for supplies or services necessary
21 to fulfill the duties of the Commission.

22 **SEC. 106. LIMITATION ON ACTIONS FOR JUDICIAL REVIEW.**

23 Notwithstanding any other provisions of law, a deter-
24 mination of the Commission shall be subject to judicial

1 review only in an action brought no later than 30 days
2 after the issuance of the determination.

3 **SEC. 107. ACCESS TO INFORMATION AND RECORDS OF**
4 **AGENCIES.**

5 The Commission may secure directly from any agency
6 such information as may be necessary to enable the Com-
7 mission to carry out its duties. Upon request of the Chair-
8 person of the Commission, the head of an agency shall,
9 to the extent not otherwise prohibited by law, furnish such
10 information to the Commission. The Commission shall
11 have access to, and may inspect, records of any agency
12 to obtain that information.

13 **TITLE II—AGENCY ROLE IN**
14 **SUNSET REVIEWS**

15 **SEC. 201. AGENCY RESPONSIBILITIES.**

16 The head of each agency shall—

17 (1) conduct thorough and systematic reviews,
18 based on the criteria set forth in section 102(b), of
19 all regulations of the agency;

20 (2) prepare and transmit to the Commission a
21 report on regulations of the agency, by not later
22 than 1 year prior to the date on which the regula-
23 tions are scheduled to be reviewed under schedules
24 published by the Commission under section
25 102(c)(3), which includes—

1 (A) specific findings regarding the criteria
2 set forth in section 102(b) with respect to each
3 regulation;

4 (B) recommendations on whether each reg-
5 ulation should terminate, be authorized to con-
6 tinue in effect, or be modified; and

7 (C) recommendations on the consolidation
8 of any of the regulations with other regulations
9 that duplicate functions of the regulations; and

10 (3) publish in the Federal Register responses to
11 determinations of the Commission in its reports
12 under subsection (d) of section 102, including—

13 (A) responses to recommendations by the
14 Commission of modifications in regulations of
15 the agency; and

16 (B) descriptions of the actions to be taken
17 by the agency in response to all recommenda-
18 tions of the Commission under that section.

19 **SEC. 202. DESIGNATION OF AGENCY REGULATORY REVIEW**
20 **OFFICERS.**

21 (a) IN GENERAL.—There shall be within each agency
22 a Regulatory Review Officer, who shall be designated by
23 the head of the agency from among officials of the agency.

24 (b) FUNCTIONS.—The Regulatory Review Officer of
25 an agency shall—

1 (1) further the compliance by the agency with
2 the requirements of this Act; and

3 (2) report directly to the head of the agency
4 with respect to the function under paragraph (1).

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